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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,323	09/29/2000	Paul J. Strande	S122.101.101	1989

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EXAMINER

LEGESSE, NINI F

ART UNIT PAPER NUMBER

3711

DATE MAILED: 04/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/676,323

Applicant(s)

STRANDE, PAUL J.

Examiner

Nini F. Legesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 6-25 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 19-22 is/are allowed.
6) ☒ Claim(s) 1,2,6-16,18 and 23-25 is/are rejected.
7) ☒ Claim(s) 17 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

Applicant's Request for Continued Examination and amendment to the claims is acknowledged in paper numbers 8 and 9.

Claim Objections

Claim 25 is objected to because of the following informalities: the limitation "wherein the down swing club path guide is spatially fixed relative to the arm path member and the body path member" is not clear because referring to Fig 1 of the instant application, the club path guide (16), the arm path member (12), and the body path member (14) clearly have common area at the center of the device. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6, 11-13, 15, 16, 18, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trosko (US Patent No. 3,580,584) in view of Vlach (US Patent No. 3,899,179) and Lynch (US Patent No. 1,596,110).

Trosko discloses:

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- An arm path member having a substantially linear, elongated shape and having a leading end (23);
- A body path member having a generally arcuate shape with a leading end (11);
- Body path member (11) includes a back swing portion and a follow through portion, with the back swing portion and the follow through portion each have a generally arcuate shape (referring to Fig 1, the portion where item 11 is shown is the back swing portion and the opposite portion is the follow through portion);
- An inner edge of the arm path member and an inner edge of the body path member adjacent the respective leading ends of the arm path member and the body path member define a first acute angle there between having a vertex (Fig 1); and
- The back swing portion and the follow through portion include an indicia formed thereon and having a shape generally matching the curvature of the respective follow through and back swing portions (Fig 1).

Trosko discloses the invention as recited above but fails to show a monolithic unit, fails to reveal a the device defining a forward and rearward extension relative to the center, a directional arrow disposed at each of the leading and trailing ends of the arm path member, a directional arrow at the leading end of the body path member with a second arm and body path indicators and a second acute angle formed between the inner edge of the arm and the inner edge of the body path members. Vlach reveals a forward and rearward extension relative to

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the center with a directional arrow (50) disposed at each of the leading and trailing ends of the arm path member (Fig 1). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to include a directional arrow at the leading and trailing ends of the arm and body path members as taught by Vlach in the Trosko device in order to provide a directional indicating means for properly aligning the direction of the swing of a golf club.

With respect to claim 16 if the Trosko's reference is modified in view of Vlach (extending the directional member (23) of the Trosko reference to have both forward and rearward sections), then second angle would be automatically formed.

With respect to a monolithic feature of the invention and with respect to claim 23, Lynch discloses a monolithic device (refer to Figs. 1-2, the device is one unit. Column 2, lines 75-76 also indicate that the device is molded). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a monolithic device (*it is clear that if the device of Trosko is modified to be a monolithic element as taught by Lynch, then it is clear that the body path member would be rigidly affixed to the arm path member*) as taught by Lunch in the Trosko device in order to provide a device that has less parts.

With respect to claim 13, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference(s) as applied to claims 1,2, and 6 above, and further in view of Official Notice.

With respect to claim 7, It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an elongated hole other than a circular hole (26) as revealed by Vlach since the examiner takes Official Notice of the equivalence of a round hole and an elongated hole for their use in the golf art as an openings for the placement of a tee would be within the level of ordinary skill in the art, that is they will both work equally well.

With respect to claims 8-10, Lynch discloses a golf swing aid wherein the central portion of the arm path member including a target line indicia disposed adjacent the leading end and a back swing indicia disposed adjacent the trailing end (5') and Vlach discloses indicator means (50) that can be considered as an indicia (column 4, lines 6+ indicates that indicator means can be painted). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide indicia in the Trosko device in order to assist the player's eyes focused on the right part of the device.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference(s) as applied to claims 1,2, and 6 above, and further in view of Anderson (US Patent No. 3,542,369). Anderson discloses two sets of anchoring holes (18). It would have been obvious to one of ordinary skill in the art at the

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time the invention was made to include anchoring holes as taught by Anderson in the Trosko device in order to secure the training device to the ground.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: none of the prior art teach a club path indicator that extends through a junction of the arm path member and the body path member, when affixed in the manner claimed in combination with the other recited features.

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-22 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 6-25 have been considered but is moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (703) 605-1233. The examiner can normally be reached on 9:30 AM - 6:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Garbe can be reached on (703) 308-1207. The

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fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NFL
03/30/04


Stephen P. Garbe
Primary Examiner